

Western Australia

# **Architects Act 1921**

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Western Australia

## Architects Act 1921

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**The First Schedule**

**The Second Schedule**

**Notes**

Western Australia

## Architects Act 1921

An Act to make provision for the registration of architects.

### *Preliminary*

1. **Short title**

This Act may be cited as the *Architects Act 1921*.<sup>1</sup>

2. **Interpretation**

(1) In this Act, subject to the context —

“**articles of association**”, in relation to a foreign corporation, includes by-laws, regulations or other instrument regulating the internal administration of the foreign corporation;

“**Board**” means The Architects’ Board of Western Australia constituted under this Act;

“**by-law**” means a by-law made under the authority of this Act;

“**corporation**” means any body corporate, whether formed or incorporated in or outside the State, and includes any company, any recognized company, any recognized foreign company, and any foreign company within the meaning of the *Companies (Western Australia) Code*;

“**District Court**” means The District Court of Western Australia;

“**firm**” means an unincorporated body of persons (whether consisting of natural persons or of corporations or partly of natural persons and partly of corporations);

**“foreign corporation”** means —

- (a) a corporation which is not incorporated in the State;  
or
- (b) a corporation which is incorporated in the State but which is a subsidiary, within the meaning given to that term by section 7(1) of the *Companies (Western Australia) Code*, of a corporation which is not incorporated in the State;

**“memorandum”**, in relation to a foreign corporation, includes charter, statute or other instrument constituting or defining the constitution of the foreign corporation;

**“practising corporation”** means a corporation which is registered as an architect under this Act;

**“practising firm”** means a firm which is registered as an architect under this Act;

**“register”** means the Register of Architects kept under this Act;

**“registered”** means registered under this Act;

**“registered architect”** means a natural person who is registered as an architect under this Act.

- (2) The provisions of this Act apply, with such adaptations as may be necessary, to a practising corporation and to a practising firm, notwithstanding that they are not expressly so applied otherwise than by virtue of this subsection.
- (3) Nothing in this Act shall be construed as prohibiting the distribution by way of salary, commission, director’s fees, dividends or otherwise of the profits of a practising corporation or practising firm to the members of that corporation or firm.

*[Section 2 amended by No. 76 of 1969, s.3; No. 39 of 1978, s.3; No. 67 of 1981, s.2; No. 10 of 1982, s.28.]*

*[3-4. Repealed by No. 76 of 1969 s.4.]*

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*The Architects' Board of Western Australia*

**5. The Architects' Board**

- (1) A Board to be called "The Architects' Board of Western Australia" shall be established, and such Board shall be a body corporate with perpetual succession and may have and use a common seal.
- (2) The Board shall consist of 10 members, 3 to be appointed from time to time by the Governor, one to be nominated by the Western Australian Chapter of the Royal Australian Institute of Architects and 6 to be elected from time to time by the registered architects from among their number in accordance with the by-laws, and until by-laws are made, in the manner prescribed in the First Schedule.
- [*(3) repealed.*]
- (3a) The member nominated by the Western Australian Chapter of the Royal Australian Institute of Architects shall hold office for a period of 12 months.
- (4) One of the appointed members and 2 of the elected members shall retire annually, on a date to be fixed by the by-laws, but shall be eligible for reappointment or re-election.
- (5) If any member of the Board —
  - (a) dies, resigns, or ceases to reside in the State; or
  - (b) absents himself from 3 consecutive meetings of the Board without leave obtained from the Board in that behalf; or
  - (c) ceases to be registered under this Act or is suspended from practising as an architect,his seat shall become vacant.
- (6) The rules set out in the Second Schedule shall apply to the business and proceedings of the Board, but may be revoked or altered wholly or in part by the by-laws.

*[Section 5 amended by No. 76 of 1969 s.5.]*

**5A. Eligibility of members**

Notwithstanding the registration of practising corporations and of practising firms as architects pursuant to this Act, no practising corporation or practising firm is eligible to become a member of the Board and the Board shall be comprised of natural persons only.

*[Section 5A inserted by No. 39 of 1978 s.4.]*

**6. Registrar and officers of the Board**

- (1) The Board shall appoint a registrar, and may appoint such other officers as may be deemed necessary for the purposes of this Act.
- (2) The registrar and officers shall act under the control of the Board.

**7. Board may hold land**

It shall be lawful for the Board to acquire and hold land for offices or chambers for the use of the Board, or for any of the purposes of the Board.

**8. Borrowing powers of Board**

The Board may borrow money to be expended in the purchase of such land as is mentioned in the last preceding section, or in erecting offices or buildings for the use of the Board.

**9. Powers of Board with respect to property**

The Board may sell, lease, exchange, or mortgage any real or personal property vested in it.

**10. Power to examine on oath**

The Board may for the purposes of any inquiry under this Act examine any person upon oath, and for such purpose any member of the Board may administer an oath.

**11. Proceedings of Board not invalidated by vacancy, etc.**

- (1) No act or proceeding of the Board shall be invalid or illegal in consequence only of the number of the members of the Board not being complete at the time of such act or proceeding.
- (2) Subject to the provisions of section 5A, all acts and proceedings of the Board shall, notwithstanding the subsequent discovery of any defect in the appointment or election of any member thereof, or that any member was disqualified or disentitled to act, be as valid as if such member had been duly appointed or elected and was qualified and entitled to act, and as if the Board had been properly and fully constituted.

*[Section 11 amended by No. 39 of 1978 s.5.]*

**11A. Exemption from personal liability**

A person who is or has been a member of the Board is not personally liable for anything done, or omitted to be done, in good faith in, or in connection with, the exercise or purported exercise of any power conferred, or the carrying out of any duty imposed, on him or the Board by this Act.

*[Section 11A inserted by No. 76 of 1969 s.6.]*

*Registration*

**12. The register**

- (1) The Board shall keep a register for the registration in the prescribed manner of natural persons, practising corporations and practising firms as architects under this Act.
- (2) The register shall be called “The Register of Architects,” and shall be kept by the registrar.
- (3) The register shall contain the name and such other particulars as may be prescribed of —
  - (a) every natural person who has applied to the Board for registration and has satisfied the Board that he possesses

**s. 14**

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the qualifications, experience and knowledge required under this Act;

- (b) every practising corporation and every practising firm which has applied to the Board for registration and has satisfied the Board that it complies with the requirements of this Act; and
- (c) every natural person, practising corporation, or practising firm registered pursuant to an order of the District Court under section 16.

*[Section 12 amended by No. 76 of 1969 s.7; No. 39 of 1978 s.6.]*

*[13. Repealed by No. 76 of 1969 s.8.]*

**14. Registration by the Board**

- (1) No natural person shall, except as hereinafter provided, be registered as an architect unless he applies for registration to the Architects' Board of Western Australia, and proves to the satisfaction of the Board that he has attained the age of 21 years and is a person of good character and reputation; and
  - (a) has completed a course of studies in architectural subjects approved by the Board at a college, school or other educational institution approved by the Board; or
  - [(b) deleted.]*
  - (c) is a member of a prescribed institute or is registered as an architect by a prescribed body or authority,

and satisfies the Board, by examination or otherwise, as the Board thinks necessary in any particular case, that he possesses sufficient knowledge of matters concerning the practice of architecture.

- (2) No corporation or firm shall be registered as an architect unless an application is made on behalf of that corporation or firm to the Architects' Board of Western Australia for registration and the Board is satisfied that the corporation or firm complies with the requirements of this Act.

- (3) In considering any application for registration the Board may —
- (a) have regard to any advice that may be received from the Architects Accreditation Council of Australia or such other body as the Board thinks fit in relation to any applicant who possesses qualifications obtained otherwise than in the State;
  - (b) pay such fees or disbursements as it thinks fit in the obtaining of that advice; and
  - (c) require that the applicant pay or contribute towards the whole or any part of those fees or disbursements.

*[Section 14 amended by No. 43 of 1923 s.2; No. 45 of 1956 s.2; No. 29 of 1960 s.2; No. 76 of 1969 s.9; No. 39 of 1978 s.7; No. 25 of 1986 s.4.]*

**14A. Practising corporations**

- (1) A corporation that wishes to be, or to continue to be, registered as an architect pursuant to section 14(2) shall not be eligible to do so unless —
- (a) it has a place of business or is carrying on business within the State and the Board is satisfied that the principal executive officer of the corporation in the State is a registered architect;
  - (b) its memorandum is acceptable to the Board and contains a provision that the Board be notified of any intention to amend that memorandum and be furnished with a copy of any proposed resolution or other form of proposal to give effect to that intention;
  - (c) its articles of association are acceptable to the Board and contain a provision that —
    - (i) the Board be notified of any intention to amend those articles of association and be furnished with a copy of any proposed resolution or other form of proposal to give effect to that intention; and
    - (ii) a body corporate shall not be eligible to be a director of the corporation;

**s. 14A**

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- (d) if 2 or more directors of the corporation are registered architects, the articles of association of the corporation contain a provision that —
  - (i) all issued shares carrying the right to vote at general meetings of the corporation are to be held by the directors of the corporation;
  - (ii) three-fifths of the total voting rights conferred by the issued shares referred to in subparagraph (i) are to be held by registered architects;
  - (iii) not less than three-fifths of the total number of directors of the corporation are to be registered architects;
  - (iv) a meeting of the directors of the corporation is not properly constituted unless not less than three-fifths of those directors present at that meeting are registered architects; and
  - (v) every director who is not a registered architect is to be acceptable to the Board;
- (e) if only one director of the corporation is a registered architect, the articles of association of the corporation contain a provision that —
  - (i) all issued shares carrying the right to vote at general meetings of the corporation are to be held by that director;
  - (ii) the number of directors of the corporation is to be 2;
  - (iii) that director is to have the casting vote whenever the directors of the corporation cannot agree on a proposed resolution; and
  - (iv) a meeting of the directors of the corporation is not properly constituted unless the director who is a registered architect is present at that meeting;
- (f) its articles of association prohibit the allotment or transfer of issued shares in the corporation which do not carry the

right to vote at general meetings of the corporation to, or their acquisition by, any person who, by reason of a relationship of any kind whatsoever between him and a director of the corporation or the business activities in which that person is for the time being engaged or otherwise interested, is able to affect or diminish or likely to affect or diminish the independence of judgment, management or decision of the directors of the corporation in the conduct of the practice of architecture;

- (g) every director, other than a director who is a registered architect, is acceptable to the Board; and
  - (h) all shares not held by a director who is a registered architect are held by a person who is acceptable to the Board.
- (2) The Board may require that, if —
- (a) the beneficial interest in any share in; or
  - (b) any beneficial interest (whether expectant or in possession) in the income of,

a practising corporation is owned by or devolves on a person who the Board determines to be ineligible to hold that interest, that interest shall be terminated within such reasonable period as the Board specifies, and that ownership or devolution shall not of itself render the practising corporation ineligible for the purposes of this section until the expiry of the period so specified.

- (3) A corporation which has executed or intends to execute a deed of trust, which execution may result in a person other than a registered architect or a practising corporation receiving or being entitled to receive a share of the income of that corporation, is not eligible to be or to continue to be a practising corporation unless the deed of trust, and all beneficiaries or classes of beneficiaries thereunder, are acceptable to the Board.

*[Section 14A inserted by No. 39 of 1978 s.8; amended by No. 67 of 1981 s.3.]*

**s. 14B**

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**14B. Suspension or cancellation of the registration of a practising corporation**

- (1) Where the Board determines that —
- (a) the memorandum or articles of association of a practising corporation has or have been amended in a manner unacceptable to the Board, or without prior notice to the Board;
  - (b) any director, member or shareholding or beneficial holding of shares ceases to comply with the requirements of section 14A;
  - (c) any requirement —
    - (i) of this Act as to the lodging of an Annual Statement or other information; or
    - (ii) made by the Board under section 14A, has not been complied with; or
  - (d) a practising corporation has contravened or failed to comply with any condition upon which registration was granted by the Board,

the registration of that practising corporation as an architect under this Act is liable to be suspended or cancelled and the Board shall so notify the corporation.

- (2) Where a practising corporation is notified by the Board that the registration of that corporation as an architect is liable to be suspended or cancelled pursuant to subsection (1) a person who is dissatisfied with the decision of the Board may apply to the District Court in the manner provided by section 16 as though the decision had been made in relation to an application for registration, and the provisions of that section shall have effect accordingly.
- (3) Where the registration of a practising corporation as an architect is liable to be suspended or cancelled under subsection (1) the Board shall not effect that suspension or cancellation until —
- (a) the practising corporation has been notified of the Board's decision; and

- (b) any appeal that may be lodged under section 16 has been determined or the time within which such an appeal may be lodged has expired,

but shall, unless the Court otherwise orders, thereafter give effect to the suspension or cancellation by notice published in the *Government Gazette* and record the decision in the register.

*[Section 14B inserted by No. 39 of 1978 s.9; amended by No. 67 of 1981 s.4.]*

**14C. Practising firms**

- (1) A firm that wishes to be, or to continue to be, registered as an architect pursuant to section 14(2) shall not be eligible to do so unless —
  - (a) it has a place of business or is carrying on business within the State and the Board is satisfied that the managing partner is a registered architect;
  - (b) it carries on business within the State under a name registered under the *Business Names Act 1962*, and not otherwise;
  - (c) it is a partnership, other than a limited partnership, constituted pursuant to a deed of partnership which is acceptable to the Board and contains a provision that no amendment thereto shall be made or have effect in the State without the prior approval of the Board;
  - (d) not less than three-fifths of the members of the firm are registered architects of whom one has the actual personal supervision and management of the business of the firm in the State;
  - (e) every member of the firm, other than such as are registered architects, is —
    - (i) an engineer, surveyor or member of an allied profession having qualifications approved by the Board; or

**s. 14D**

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(ii) a person who complies with such other requirements as the Board may from time to time determine;

and

(f) where the partnership includes a corporation amongst its members, that corporation is eligible to be registered as an architect under this Act.

*[Section 14C inserted by No. 39 of 1978 s.10; amended by No. 67 of 1981 s.5.]*

**14D. Suspension or cancellation of the registration of a practising firm**

(1) Where the Board determines that —

- (a) the deed of partnership of a practising firm has been amended without the prior approval of the Board;
- (b) the provisions of section 14C have not been complied with or have ceased to be complied with in relation to any practising firm;
- (c) any requirement of this Act as to the lodging of an Annual Statement or other information has not been complied with; or
- (d) a practising firm has contravened or failed to comply with any condition upon which registration was granted by the Board,

the registration of that practising firm as an architect under this Act is liable to be suspended or cancelled and the Board shall so notify the firm.

(2) Where a practising firm is notified by the Board that the registration of that practising firm as an architect is liable to be suspended or cancelled pursuant to subsection (1) a person who is dissatisfied with the decision of the Board may apply to the District Court in the manner provided by section 16 as though the decision had been made in relation to an application for registration, and the provisions of that section shall have effect accordingly.

- (3) Where the registration of a practising firm as an architect is liable to be suspended or cancelled under subsection (1) the Board shall not effect that suspension or cancellation until —
- (a) the practising firm has been notified of the Board's decision; and
  - (b) any appeal that may be lodged under section 16 has been determined or the time within which such an appeal may be lodged has expired,

but shall, unless the Court otherwise orders, thereafter give effect to the suspension or cancellation by notice published in the *Government Gazette* and record the decision in the register.

*[Section 14D inserted by No. 39 of 1978 s.11.]*

**15. Application for registration**

- (1) Every application for registration as an architect under this Act shall be made in the prescribed form, and shall be addressed to the chairman of the Architects' Board of Western Australia, and the statements made therein shall be verified by a statutory declaration made —
- (a) by the applicant, being a natural person;
  - (b) by a person who is registered as an architect under this Act and who is a director of that corporation, where the application is for the registration of a corporation as a practising corporation; or
  - (c) by a person who is registered as an architect under this Act and who is a member of that firm, where the application is for the registration of a partnership as a practising firm.
- (1a) Where a corporation or firm is desirous of obtaining registration as an architect a preliminary application may be made to the Board in the prescribed manner for the directions of the Board as to whether or not, in the opinion of the Board, that corporation or firm is capable of complying with the requirements of this Act and, if not so capable, the matters which require amendment.

**s. 16**

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- (2) The Board may require the attendance before it of the person applying to be registered, or of any other person.
- (3) If not satisfied that the applicant is entitled to be registered, the Board may refuse the application or adjourn the same for further consideration.
- (4) Every application under subsection (1) shall be accompanied by such registration fee as may be prescribed, which shall be returned to the applicant if the application is refused.
- (5) In considering any preliminary application under subsection (1a) the Board may pay such fees and disbursements as it thinks fit in dealing with the preliminary application and, subject to subsection (6), may require that the person making the preliminary application pay or contribute towards the whole or any part of those fees or disbursements.
- (6) The Board shall not require a payment or contribution under subsection (5) from a person in respect of a preliminary application made before the coming into operation of the *Architects Amendment Act 1986* but any amount paid by that person as a fee in respect of the making of that application shall be taken to have been properly received by the Board.

*[Section 15 amended by No. 29 of 1960 s.3; No. 76 of 1969 s.10; No. 39 of 1978 s.12; No. 25 of 1986 s.5.]*

**16. Appeal**

- (1) Where an application is made for registration as an architect under this Act and the applicant is dissatisfied with the decision of the Board, it shall be lawful for the applicant, within one month of the giving of the decision, to apply in the manner prescribed, and on payment of the prescribed fees, to the District Court at Perth for an order directing the Board to effect registration.
- (2) The District Court may order that the applicant be registered, or that the applicant be registered conditionally or upon terms, or may decline to make such or any order.

- (3) The District Court may make such order as to costs of and incidental to the application as it thinks just.

*[Section 16 amended by No. 45 of 1956 s.3; No. 76 of 1969 s.11; No. 39 of 1978 s.12.]*

**17. Certificate of registration**

When any registration is effected, the registrar shall deliver to the applicant a certificate of registration in the prescribed form.

*[Section 17 amended by No. 39 of 1978 s.14.]*

**18. Subscription fees**

- (1) Every registered architect, practising corporation and practising firm shall pay, on or before 31 March in every year, an annual subscription to the funds of the Board of such amount as is prescribed by the by-laws, and the amount of such subscription shall be recoverable by the Board by action in any court of competent jurisdiction:

Provided that any registered architect who has ceased to practise may, with the approval of the Board, remain on the register without liability to pay such subscription, but shall not be qualified to be a member of the Board or be allowed to vote at any meeting of registered architects held under this Act.

- (2) The Board may remove from the register the name of any registered architect who, or any practising corporation or practising firm which, has failed to pay the annual subscription fee payable within the time required by subsection (1); and on notice of such removal under the hand of the secretary being served on that registered architect, practising corporation or practising firm, as the case requires, the registration shall be deemed to have ceased.
- (3) Where the name of a registered architect, practising corporation or practising firm is so removed from the register the registered architect, practising corporation or practising firm may, at any time after the date when notice thereof was served, pay to the

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Board all fees which are in arrear, or which would be in arrear if the name had continued to be registered, and shall thereupon be entitled to have the name restored to the register.

- (4) Any registered architect, practising corporation or practising firm to whom subsections (2) and (3) may apply may make representations to the Board with the object of obtaining remission of fees in arrear, and the Board may, if it should think fit, remit such fees in whole or in part.

*[Section 18 amended by No. 29 of 1960 s.4; No. 76 of 1969 s.12; No. 39 of 1978 s.15; No. 67 of 1981 s.6.]*

**19. Register may be altered to insert new or additional qualifications**

Every registered architect who obtains any degree or qualification other than that in respect of which he is registered shall be entitled, on payment of a fee of \$1, to have such other degree or qualification inserted in the register, in substitution for or in addition to the qualification therein stated.

*[Section 19 amended by No. 113 of 1965 s.8(1).]*

**19A. Notices and statements required of practising corporation**

- (1) Every practising corporation shall —
- (a) within one month after any person becomes or ceases to be a director or member of that corporation lodge with the registrar a notice stating the full names and usual residential address of that person and the fact that he has become or ceased to be a director or member; and
  - (b) in the month of July in each year lodge with the registrar an Annual Statement in the prescribed form.
- (2) The Annual Statement shall state —
- (a) the full name and usual residential address of every person who on 30 June preceding the lodging of the Annual Statement was a director or member of the corporation;

- (aa) the full name and usual residential address of every person who on 30 June preceding the lodging of the Annual Statement held a beneficial interest (whether expectant or in possession) in the income of the corporation, and any relationship of any kind whatsoever between that person and any director of the corporation;
- (b) the number of shares in the corporation held by each person and the number of votes which he is entitled to cast at a meeting of directors or members of the corporation;
- (c) in relation to each director and each member, whether he is a registered architect;
- (d) where the provisions of section 22C apply, the name of the insurers by whom the foreign corporation is insured under a policy of professional indemnity insurance and the limit, if any, on the amount for which the insurer is liable; and
- (e) any other matters, necessary or convenient for the administration of this Act, which are indicated in the form.

*[Section 19A inserted by No. 39 of 1978 s.16; amended by No. 67 of 1981 s.7.]*

**19B. Notices and statements required of practising firm**

- (1) Every practising firm shall —
  - (a) within one month after any person becomes or ceases to be a member of the firm, or becomes or ceases to be a director or member of a corporation included amongst the members of the partnership, lodge with the registrar a notice stating the full names and usual residential address of that person and the fact that he has become or ceased to be a member of that firm or a director or member of that corporation, as the case may require; and
  - (b) in the month of July in each year lodge with the registrar an Annual Statement in the prescribed form.

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- (2) The Annual Statement shall state —
- (a) the full name and usual residential address of every person who on 30 June preceding the lodging of the return was a member of the firm;
  - (b) in relation to each member, whether he is a registered architect;
  - (c) where the partnership includes a foreign corporation amongst its members the like information relating to professional indemnity insurance as required in relation to such a corporation pursuant to section 19A(2); and
  - (d) any other matters necessary or convenient to the administration of the Act, which are indicated in the form.

*[Section 19B inserted by No. 39 of 1978 s.17; amended by No. 67 of 1981 s.8.]*

*[20-21. Repealed by No. 76 of 1969 s.13.]*

**22. Correction of register**

- (1) The Board shall from time to time erase from the register the names of all registered persons who have died, all practising corporations struck off the register of companies pursuant to section 459 of the *Companies (Western Australia) Code*<sup>2</sup>, or a corresponding provision of a corresponding law of any other State or Territory of the Commonwealth, or dissolved, and all names ordered to be removed from the register by the Board or the District Court under section 22A and shall make such alterations and amendments in the register as may be necessary for the purpose of making the same an accurate record of the names, addresses, and qualifications of all architects for the time being registered.
- (2) All such corrections of the register shall be recorded in the minutes of the Board, and a reference to the relevant minute shall be made on the register.

- (3) The Board shall cause notification of the fact that the name of any person or corporation has been erased from the register pursuant to this section to be published in the *Government Gazette*.

*[Section 22 amended by No. 45 of 1956 s.6; No. 76 of 1969 s.14; No. 39 of 1978 s.18; No. 10 of 1982 s.28.]*

**22A. Misconduct of architect**

- (1) In this section, “**misconduct**” means the doing by a person registered under this Act as an architect of any of the following things —
- (a) allowing any person except a registered architect in partnership with himself or a practising firm of which he is a member or a practising corporation of which he is a director or a member to practise in his name as an architect or use his name in connection with an architectural practice;
  - (b) directly or indirectly sharing his professional remuneration with any person not being a registered architect in partnership with him, or directly or indirectly accepting any share of the professional remuneration of such a person, or any commission or bonus thereon;
  - (ba) directly or indirectly sharing the professional income of a practising corporation with a person (not being a member of the practising corporation or a beneficiary, or member of a class of beneficiaries, of a trust of which the practising corporation is the trustee) unless the person is acceptable to the Board;
  - (c) signing accounts, statements, reports, specifications, plans, or other documents purporting to represent any architectural work performed by himself, where the work has not been performed under his personal supervision or direction;

**s. 22A**

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- (d) directly or indirectly paying a person a commission for bringing him work, or giving any person monetary or other consideration as a remuneration for bringing him work, or for inducing other persons to give him work;
- (e) performing any architectural work in connection with any matter which is the subject of dispute or litigation upon condition that only in the event of the dispute or litigation ending favourably for the party for whom the work is performed shall payment be made for the work;
- (f) receiving, or accepting any promise of any direct or indirect reward for his services as an architect, in connection with any architectural work, other than his professional remuneration;
- (g) accepting any architectural work on condition or promise that he will give or receive, or because he has given or received, any remuneration, discount, gift or commission directly or indirectly to or from any person, other than his professional remuneration to be received by him from the person by whom he has been engaged to perform that architectural work;
- (h) failing to disclose to any person who engages his professional services as an architect in connection with any architectural work that he has a direct or an indirect pecuniary interest in any building material, device, invention or patented matter, if he proposes that it be used or applied in or in connection with, the work; or using it or causing it to be used in, or in connection with, the work, without the written approval of the person; except in either case where he has that interest as, and in common with, the other members of a limited liability company of not less than 51 members;
- (i) advertising, by any means, that he offers his services as an architect or that his services as such are available, unless the Board approves the advertising, whether in a

- particular case by written approval issued by the Board, or generally by by-law made under this Act;
- (j) if he is registered because of any qualification conferred on him by any institution or other body, and that qualification has been withdrawn or cancelled by that institution or body, failing as soon as practicable after the withdrawal or cancellation of that qualification to apply to the Board for removal of his name from the register and for cancellation of his registration;
  - (k) obtaining registration by fraud or misrepresentation;
  - (l) committing, whether in the State or elsewhere, and being convicted of, an offence of so serious a nature, that he should not, in the opinion of the Board, be permitted to continue to have his name on the register;
  - (m) being guilty of negligence or incompetence in the performance of any contract, or of fraudulent conduct in regard to carrying out his duties, as an architect; or
  - (n) any other thing that constitutes infamous or improper conduct in a professional respect.
- (1a) Without prejudice to the provisions of section 2(2) instead of proceeding against the corporation or firm in question the Board or the District Court may exercise any of the powers conferred by this section in relation to a director or a member of a practising corporation or a member of a practising firm in the same manner as those powers may be exercised in relation to a person practising solely on his own account.
- [(2) repealed.]*
- (3) Where it appears to the Board that a registered person is guilty of misconduct, the Board may, subject to the by-laws, inquire into the misconduct —
- (a) by notifying the person in writing of the misconduct alleged;
  - (b) by appointing a time and place for the holding of the inquiry;

**s. 22A**

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- (c) by permitting the person the right to call such evidence and make such representations as he thinks fit and as are relevant to the inquiry, and to representation by counsel;
  - (d) notifying the person of the time and place, and of those rights, and opening the inquiry on the appointed day; and
  - (e) proceeding with the hearing of the inquiry at the appointed place.
- (4) For the purpose of conducting an inquiry under this section, the Board has and may exercise, without prejudice to the provisions of section 10, the powers conferred upon Justices of the Peace under the *Justices Act 1902*, in all respects as if the matter of inquiry were a matter which may be heard and determined by Justices under that Act.
- (5) If as the result of the inquiry the Board is of opinion that the person is guilty of the misconduct alleged, the Board may by written order direct —
  - (a) that the person be reprimanded;
  - (ab) that the registration of the person be suspended for such period, not exceeding 12 months, as the Board thinks fit and specifies in the order; or
  - (b) that the person's name be removed from the register and his registration be cancelled; and
  - (c) in either case that he pay to the Board costs of and incidental to the inquiry, to be fixed by the Board, or at the election of the person and on payment of the appropriate fees prescribed in relation to taxation of costs in District Court proceedings, to be determined by taxation by the appropriate officer of the District Court at Perth on the highest scale of costs prescribed for proceedings in the District Court.
- (6) If as a result of the inquiry the Board decides that the person is not guilty of the misconduct alleged, the Board —
  - (a) shall order that the decision be recorded in the Board's minutes; and

- (b) may order that the costs of and incidental to the inquiry be paid by the Board, as fixed by the Board, or at the election of the person and on payment of the appropriate fees prescribed in relation to taxation of costs in District Court proceedings, to be determined by taxation by the appropriate officer of the District Court at Perth on the highest scale of costs prescribed for proceedings in the District Court.
- (7) A decision or order of the Board made under this section —
- (a) shall be promulgated in writing sealed with the common seal of the Board;
  - (b) shall be kept by the registrar of the Board in his custody, until the Minister, as he is hereby empowered to do, authorizes its destruction;
  - (c) shall be available at reasonable times for perusal, and to be copied, by any person;
  - (d) shall, subject to appeal mentioned in subsection (8) —
    - (i) have effect according to its tenor; and
    - (ii) be judicially noticed by all Courts and persons exercising judicial authority.
- (8) A person dissatisfied with an order or decision made under this section by the Board, including an award or refusal to award costs, may within one month of the promulgation of the order or decision appeal against it, in manner prescribed and on payment of the prescribed fees, to the District Court at Perth which may determine the appeal either on the record of the inquiry by the Board, or on hearing evidence and submissions anew, or partly on each, as it thinks fit, and which may confirm, vary, or reverse the order or decision; and may make such order as to the costs of and incidental to the appeal as it considers just.
- (9) Where costs are awarded, whether by the District Court or the Board, the amount of the costs, if unpaid, is recoverable in a court of competent jurisdiction at the suit of the person to whom

**s. 22B**

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the costs are awarded, as a debt due from the person or body against whom they are awarded.

*[Section 22A inserted by No. 45 of 1956 s.7; amended by No. 76 of 1969 s.15; No. 39 of 1978 s.19; No. 67 of 1981 s.9.]*

**22B. Liability for damages, etc.**

- (1) The directors of a corporation practising as an architect pursuant to this Act, and any person who was at the time the cause of action arose a director of that corporation, shall be jointly and severally liable for the acts or omissions of that corporation in a professional respect in the course of or in connection with its practice as an architect to the same extent as they would be so liable if that corporation were a firm and the directors were members of the firm, and where, at the relevant time, there is only one director he shall be liable to the same extent as if practising on his own account.
- (2) The provisions of subsection (1) shall be construed as being in aid of and not in derogation from any remedy exercisable apart from this Act.

*[Section 22B inserted by No. 39 of 1978 s.20.]*

**22C. Duty of foreign corporation to insure**

- (1) Subject to subsection (3), a foreign corporation shall at all times when it is carrying on business as an architect have and maintain in force a policy of professional indemnity insurance which complies with this section and on which the premiums are fully paid, and failure to maintain such insurance shall be deemed to be improper conduct in a professional respect.
- (2) Every policy of professional indemnity insurance issued for the purposes of this section —
  - (a) must be issued by a company carrying on insurance business as defined in the *Insurance (Deposits) Act 1932* of the Commonwealth as from time to time amended;

- (b) must indemnify the insured corporation against liability which may be incurred by that corporation for negligence or misfeasance in respect of any work done by or on behalf of that corporation in the course of the practice of architecture;
  - (c) may stipulate a limit on the amount for which the insurance company is liable in the aggregate or in respect of any one claim, not being an amount less than the appropriate amount prescribed by by-laws made by the Board; and
  - (d) must comply with any other requirements prescribed by by-laws made under this Act.
- (3) The Minister may, by instrument in writing served on the corporation, for the time being exempt any foreign corporation from the operation of subsection (1), and the provisions of that subsection shall not apply to or in relation to that corporation for as long as that exemption subsists, but the Minister may, at any time, revoke any such exemption either by instrument in writing so served or by notice in the *Government Gazette*.

*[Section 22C inserted by No. 39 of 1978 s.21.]*

**23. Register to be open to inspection**

The register shall be kept in the office of the registrar, and shall at all times be open to inspection by any person without fee.

**24. Copy of register to be published annually**

A copy of the register shall be published in the *Gazette* annually.

**25. Resignation of architects**

- (1) Where the name of any architect has been enrolled on the register, that architect may by writing addressed and delivered to the registrar of the Board give notice of resignation and request that the Board remove the name from the register.

- (2) No notice of resignation shall be accepted by the Board if the professional conduct of the architect giving that notice, or in the case of a practising corporation any director of that corporation, is the subject of an investigation by or on behalf of the Board.
- (3) Where the resignation of any architect is accepted by the Board that architect shall thereupon cease to be registered under this Act and the name shall be removed from the register.

*[Section 25 inserted by No. 39 of 1978 s.22.]*

*Committee of Architectural Education*

**26. Committee of architectural education**

- (1) The Board shall appoint a committee to be known as the Committee of Architectural Education, and the members of the committee shall be —
  - (a) the chairman and 2 other members of the Board;
  - (b) a person nominated by the University of Western Australia;
  - (c) a person nominated by the Western Australian Institute of Technology<sup>3</sup>;
  - (d) the chairman of the Board of Education of the Western Australian Chapter of the Royal Australian Institute of Architects; and
  - (e) such other persons as the Board appoints as members of the committee.
- (2) Each member of the Committee of Architectural Education shall be appointed for a term of 12 months.
- (3) The functions of the Committee of Architectural Education are —
  - (a) to advise, and submit recommendations to, the Board on matters concerning the education of students of architecture; and

- (b) to review, and to report to the Board at least once in every 5 years upon, the standard of courses in architecture conducted in Western Australia.

*[Section 26 inserted by No. 76 of 1969 s.16; amended by No. 25 of 1986 s.6.]*

*General Meeting of Architects*

**27. General meeting of architects**

- (1) The Board shall hold a general meeting of registered architects once at least in every year, at which meeting every registered architect shall be entitled to be present in person or by proxy.
- (2) The Board shall give to each registered architect 14 days notice in writing of the time and place of every such general meeting.
- (3) Unless and until otherwise provided by the by-laws, one-sixth of the number of registered architects present in person or represented by proxy at a general meeting and entitled to vote shall constitute a quorum, and all questions shall be determined by majority of votes.
- (4) A practising corporation or a practising firm shall not, as such a corporation or firm, be entitled to a vote, but subject to the proviso to section 18(1) and the by-laws every natural person registered as an architect under this Act shall be entitled to vote in person or by proxy.
- (5) The chairman shall have an original, and in case of an equality of votes, a second or casting vote.

*[Section 27 amended by No. 39 of 1978 s.23.]*

*By-laws*

**28. By-laws**

- (1) The Board may make by-laws for any of the following purposes —
  - (a) regulating the nomination of persons for election, and the election of members of the Board, and the mode of filling casual vacancies;

- (b) regulating the meetings and proceedings of the Board and the quorum to be present;
  - (c) regulating the time, mode, and place of summoning and holding ordinary and special general meetings of architects and the quorum to be present, and the mode of voting and the conduct of proceedings at such meetings;
  - (d) the appointment, duties, and removal of officers of the Board;
  - (e) fixing the amount of the annual subscription payable by registered architects, practising corporations and practising firms, respectively, and the time of payment of the same, prescribing the statements to be submitted by practising corporations and practising firms and the fees to be payable thereon, and fixing the conditions of the professional indemnity insurance required of foreign corporations;
  - (f) regulating the times and places for holding examinations of applicants for registration, and the subjects and the manner of conducting or holding any such examinations, and for fixing a reasonable fee to be paid by applicants, and the conditions on which the examiners shall hold office, and their remuneration; and
  - (g) generally for prescribing such matters as it may be necessary or convenient to prescribe for the purposes of this Act.
- (2) No by-law, and no repeal, alteration, or amendment of any by-law shall be of any force or effect unless and until it has been confirmed by the Governor and published in the *Gazette*.

*[Section 28<sup>4</sup> amended by No. 39 of 1978 s.24; No. 25 of 1986 s.7.]*

*Miscellaneous*

**29. Unregistered persons not to practise as architects**

- (1) A person, other than a registered architect, practising corporation or practising firm, who or which —
- (a) takes, uses or adopts the title or description of architect, or architectural practitioner; or
  - (b) uses any name, title, words, letters, additions, or descriptions implying or leading to the belief that such person is, or by words or conduct holds out or in any way implies that such person is —
    - (i) registered under this Act;
    - (ii) qualified under this Act to practise as an architect; or
    - (iii) is carrying on the practice of architecture,

commits an offence.

Penalty: \$1 000.

- (2) Subject to subsection (1) nothing in this Act shall be deemed to prevent an engineer, builder, or other person from designing and superintending the erection of any building.
- (3) Where the registration of an architect is suspended under this Act, the person, corporation, or firm so suspended shall be deemed not to be registered during the period of the suspension.
- (4) A person who makes or publishes a document which states, or may reasonably be interpreted as indicating, that a person not registered under this Act is an architect, or practises as an architect, or undertakes or is willing to undertake work as an architect, commits an offence whether the person referred to in the document is the person who made or published it or some other person.

Penalty: \$500.

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- (5) Notwithstanding the provisions of subsection (1) and subsection (4) a person who carried on business or is employed as a naval architect, landscape architect, golf course architect, or architectural draftsman, may use that title, or be so described in any document.

*[Section 29 amended by No. 45 of 1956 s.8; No. 74 of 1965 s.2; No. 113 of 1965 s.8(1); No. 39 of 1978 s.25; No. 67 of 1981 s.10.]*

**30. Penalty for falsifying register, or making false statements, etc.**

Any person who —

- (a) makes or causes to be made any falsification in the register or in any matter relating to the register; or
- (b) knowingly makes any false statement upon any examination before the Board, or in any document to be used in evidence before, or to be submitted to, the Board; or
- (c) utters or puts off, or attempts to utter or put off, as true before the Board any false, forged, or counterfeit degree, diploma, licence, certificate, or other document or writing; or
- (d) procures or attempts to procure any person to be registered by making or producing, or causing to be made or produced, any false statement, declaration, or representation, either verbal or in writing; or
- (e) personates or represents any person as being the person referred to in any degree, diploma, licence, certificate, document, or writing presented to the Board, or in any certificate granted under this Act; or
- (f) fraudulently or by false representation obtains any certificate of registration under this Act; or

- (g) falsely advertises or publishes that any certificate of registration under this Act has been obtained, or any such registration effected, or permits any such advertisement or publication,

commits an offence and is liable on conviction to a fine of \$1 000.

*[Section 30 amended by No. 76 of 1969 s.17; No. 39 of 1978 s.26; No. 78 of 1995 s.147.]*

**31. Costs and proceedings**

On any application under this Act to the District Court, such order as to the costs of and incidental to the application may be made as to the Court may seem fit.

*[Section 31 amended by No. 76 of 1969 s.18; No. 39 of 1978 s.27.]*

*[32. Repealed by No. 76 of 1969 s.19.]*

**33. Accounts**

- (1) The Board shall cause to be kept proper accounts and records of the transactions and affairs of the Board and shall prepare financial statements in accordance with Australian Accounting Standards.
- (2) The financial statements shall be prepared on an accrual basis unless the Board determines otherwise.

*[Section 33 inserted by No. 77 of 1987 s.3.]*

**34. Audit**

The accounts and financial statements of the Board shall be audited at least once a year, at the expense of the Board, by an auditor appointed by the Board with the prior approval of the Minister.

*[Section 34 inserted by No. 77 of 1987 s.3.]*

**35. Annual report**

- (1) The Board shall on or before 30 June in each year make and submit to the Minister an annual report of its proceedings for the preceding year ending on 31 December together with a copy of the financial statements and the auditor's report.
- (2) The Minister shall cause a copy of each annual report, financial statements and auditor's report submitted under subsection (1) to be laid before each House of Parliament within 14 sitting days of that House after receipt of the report by the Minister.

*[Section 35 inserted by No. 77 of 1987 s.3.]*

**36. Report to annual general meeting**

The Board shall submit the audited financial statements referred to in section 34 to the annual general meeting of architects.

**The First Schedule**  
**Election of members of the Board**

- [1. *deleted.*]
2. For the purpose of every election, the Board shall appoint a day for receiving the nomination of candidates, and a subsequent day prior to the date of retirement of the retiring member, for the holding of the election.
3. The Board shall cause to be delivered or sent by post to every registered architect at his registered address a nomination paper with notice of the day appointed for receiving nominations.
4. Every nomination shall be in writing, and shall be signed by the person nominating himself, and must be received by the Board on or before the day appointed for the receipt of nominations.
5. The Board shall cause to be delivered or sent by post to every architect at his registered address a voting paper on which shall be written or printed a list of all candidates nominated, with notice of the day appointed for the election, and that one or more (as the case may be) members are to be elected, and that the elector must record his vote by striking out the names of all the candidates for whom he does not vote, and return the voting paper to the Board before the date fixed for the election.
6. Every voting paper shall be signed by the chairman of the Board or the registrar before it is issued.
7. As soon as may be after the day appointed for the return of the voting papers the Board shall hold a meeting and shall there examine and count the voting papers duly returned (rejecting all informal voting papers), and shall by resolution declare the result of the election.
8. The resolution so passed by the Board shall be notified in the *Gazette*, and shall be conclusive proof that the election has been in all respects duly conducted, and that the person or persons so declared to be elected is or are members of the Board.

**First Schedule**

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9. In any case in which 2 or more candidates have received the same number of votes the Board shall determine, in such manner as it thinks fit, which of those candidates is to be elected.
10. If the number of persons nominated for election does not exceed the number to be elected, it shall not be necessary to send or return voting papers, and the Board may at the meeting convened to receive nominations decide by resolution that the person or persons so nominated has or have been duly elected, and the name or names of such person or persons shall be published in the *Gazette*.
11. These rules shall, *mutatis mutandis*, apply to elections to fill casual vacancies on the Board.

*[Schedule 1 amended by No. 76 of 1969 s.20.]*

## The Second Schedule

### Rules for the conduct of the business of the Board

**1. Board meetings**

Every meeting shall, subject to the by-laws, be held at the time and place appointed by the Board.

**2. Quorum**

A quorum of the Board shall consist of 5 members; and no business shall be transacted at any meeting of the Board unless 5 of the members are present when such business is transacted.

**3. Chairman**

The chairman shall preside at all meetings at which he is present. In the absence of the chairman from any meeting, or if after being present, he retires, the members present shall elect from their number a chairman for that meeting or for the remainder of the meeting.

The chairman shall have a vote, and, when there is an equal division of votes upon any question, he shall have a second or casting vote.

**4. Voting**

All powers vested in the Board may be exercised by the majority of the members present at any meeting duly held, and all questions shall be decided by a majority and by open voting.

Provided that any question relating to enrolment on the register shall be determined by at least 5 members of the Board present and voting at a duly convened meeting.

At all meetings, save as herein otherwise provided, all members present shall vote.

If a member refuses to vote, his vote shall be counted for the negative.

**Second Schedule**

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**5. Adjournment**

The members present at a meeting may, from time to time, adjourn the meeting.

If a quorum is not present within half an hour after the time appointed for a meeting, the members present, or any one member if only one is present, or the registrar if no member is present, may adjourn such meeting to any time not later than 7 days from the date of such adjournment:

Provided that nothing herein contained shall be construed to prevent the adjournment of any meeting to a later hour of the same day on which such meeting was appointed to be held.

**6. Notices**

All notices of any meeting shall be in writing and shall be delivered personally or sent by post or otherwise to the address of each of the members at least 7 days previous to the meeting.

**7. Authentication of documents**

Every appointment, order, certificate, or other document of the Board relating to the execution of this Act shall be sufficiently authenticated if signed by the chairman or any 2 members of the Board.

*[Schedule 2 amended by No. 76 of 1969 s.21.]*



**Notes**

<sup>1</sup> This reprint is a compilation as at 26 February 1999 of the *Architects Act 1921* and includes all amendments effected by the other Acts referred to in the following Table.

**Table of Acts**

| Act  | Number and Year | Assent           | Commencement   | Miscellaneous |
|--|-----------------|------------------|--|---------------|
| <i>Architects Act 1921</i>                         | 13 of 1922      | 31 January 1922  | 31 January 1922  |               |
| <i>Architects Act Amendment Act 1923</i>           | 43 of 1923      | 22 December 1923 | 22 December 1923   |               |
| <i>Architects Act Amendment Act 1956</i>           | 45 of 1956      | 18 December 1956 | 18 December 1956   |               |
| <i>Architects Act Amendment Act 1960</i>           | 29 of 1960      | 21 October 1960  | 21 October 1960  |               |
| <i>Architects Act Amendment Act 1965</i>           | 74 of 1965      | 25 November 1965 | 25 November 1965   |               |
| <i>Decimal Currency Act 1965</i> , sections 4 to 9 | 113 of 1965     | 21 December 1965 | Sections 4 to 9: 14 February 1966 (see section 2(2)); balance on assent    |               |
| <i>Architects Act Amendment Act 1969</i>           | 76 of 1969      | 7 November 1969  | 1 January 1970 (see section 2 and <i>Gazette</i> 19 December 1969 p.4154)  |               |
| <i>Architects Act Amendment Act 1978</i>           | 39 of 1978      | 29 August 1978   | 23 February 1979 (see section 2 and <i>Gazette</i> 23 February 1979 p.473) |               |
| <i>Architects Act Amendment Act 1981</i>           | 67 of 1981      | 23 October 1981  | 23 October 1981  |               |

## Architects Act 1921

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| Act   | Number and Year | Assent           | Commencement   | Miscellaneous                     |
|---|-----------------|------------------|--|-----------------------------------|
| <i>Companies (Consequential Amendments) Act 1982, Part VIII</i>                       | 10 of 1982      | 14 May 1982      | 1 July 1982<br>(see section 2(1) and <i>Gazette</i> 25 June 1982 p.2079)     |                                   |
| <i>Architects Amendment Act 1986</i>  | 25 of 1986      | 29 July 1986     | 14 August 1987<br>(see section 2 and <i>Gazette</i> 14 August 1987 p.3160)   | Section 7(2): saving <sup>4</sup> |
| <i>Acts Amendment (Financial Provisions of Regulatory Bodies) Act 1987, section 3</i> | 77 of 1987      | 26 November 1987 | 1 January 1988<br>(see section 2)  |                                   |
| <i>Sentencing (Consequential Provisions) Act 1995, section 147</i>                    | 78 of 1995      | 16 January 1996  | 4 November 1996<br>(see section 2 and <i>Gazette</i> 25 October 1996 p.5632) |                                   |

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<sup>2</sup> In respect of matters arising after 1 January 1991, the operation of the *Companies (Western Australia) Code* is subject to the provisions in Division 2 of Part 13 of the *Corporations (Western Australia) Act 1990*.

<sup>3</sup> Now called the Curtin University of Technology. See section 11 of No. 96 of 1986.

<sup>4</sup> Section 7(2) of Act No. 25 of 1986 reads as follows —

“

- (2) A by-law made under section 28(1)(e) of the principal Act before the day on which this Act is assented to shall be deemed to have been as validly and effectively made, and any amount paid thereunder by way of annual subscription shall be deemed to have been as properly received, as if subsection (1) had then been in operation.

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